

MDR Tracking Number: M5-04-0514-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 10-17-03.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The therapeutic procedures, physical performance testing and prolonged evaluation management were found to be medically necessary. The subsequent office visits with manipulation, conference, unlisted modality, special procedure/report, neuromuscular re-education, activities, electrodes, and hot/cold pack therapy were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for therapeutic procedures, physical performance testing, prolonged evaluation management, subsequent office visits with manipulation, conference, unlisted modality, special procedure/report, neuromuscular re-education, activities, electrodes, and hot/cold pack therapy.

This Findings and Decision is hereby issued this 14th day of January 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this Order. This Order is applicable to dates of service 10-18-02 through 06-09-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 14th day of January 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division
RL/dlh

NOTICE OF INDEPENDENT REVIEW DECISION

Amended Letter

Note: Decision

December 23, 2003

Rosalinda Lopez
Program Administrator
Medical Review Division
Texas Workers Compensation Commission
7551 Metro Center Drive, Suite 100, MS 48
Austin, TX 78744-1609

RE: MDR Tracking #: M5-04-0514-01
IRO Certificate #: IRO 4326

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to ___ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to ___ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

This patient sustained an injury on ___ when he was struck by a tractor. It was revealed he had fractures to his left hip, right ankle, and left arm. He underwent open reduction and internal fixation (ORIF) on his right hip and left ankle. A lumbar MRI dated 06/08/02 revealed herniated discs at L3-4, L4-5, and L5-S1. The cervical MRI revealed spondylosis throughout, worse at C4-5 and bilateral mild foraminal stenosis. He has attended physical therapy and saw a chiropractor for treatment.

Requested Service(s)

Subsequent office visits with manipulation, conference, injection, unclassified injection, surgical therapy, unlisted modality, physical performance testing, neuromuscular re-

education, activities, prolonged evaluation management, therapeutic procedures, electrodes, and hot/cold pack therapy 10/18/02 through 06/06/03.

Decision

It is determined that the therapeutic procedures, physical performance testing, and prolonged evaluation management from 10/18/02 through 06/06/03 were medically necessary to treat this patient's condition. However, the subsequent office visits with manipulation, conference, unlisted modality, neuromuscular re-education, activities, electrodes, and hot/cold pack therapy from 10/18/02 through 06/06/03 were not medically necessary to treat this patient's condition.

The injection, unclassified injection, and surgical therapy are beyond the scope of practice for a chiropractor and should be addressed by an M.D.

Rationale/Basis for Decision

The office visits with manipulation were not medically necessary. The medical records revealed no evidence that the treatments were beneficial and the duration of chiropractic care was excessive, as the patient had already received care from early 2002 to October 2002. Haldeman reported that manipulation appears to have its greatest effect immediately following treatment and during the initial two to six weeks on ongoing treatment. Haldeman noted that the effectiveness of manipulation for the management of back pain seems to be minimal at three months to 12 months (*Haldeman, S. "Spinal manipulative therapy: A status report., Clinical Orthopedics and Related Research, 179:62-70, 1983*). Chiropractic literature demonstrates that the response to manipulation diminishes as the length of the condition increases. McDonald and Bell, in an open controlled pilot trial on nonspecific low back pain patients to assess the effects of spinal manipulation (*McDonald, R.S., and Bell, C., "An open controlled assessment of osteopathic manipulation in nonspecific low back pain", Spine, 15:364-370, 1990*), found that after 4-6 weeks there was no appreciable improvement in the disability index (a measure of activities of daily living interference).

The use of passive physical therapy treatments, hot/cold packs, electrodes, and unlisted modalities, were not medically necessary. The maximum therapeutic benefit associated with passive modalities is noted in the first few weeks of care. The Philadelphia Panel found that therapeutic exercises were found to be beneficial for chronic, subacute, and post-surgery low back pain. Continuation of normal activities was the only intervention with beneficial effects for acute low back pain. For several interventions and indications (et, thermotherapy, therapeutic ultrasound, massage, electrical stimulation), there was a lack of evidence regarding efficacy as referenced in "Philadelphia Panel Evidenced-based Guidelines on Selected Rehabilitation Interventions for Low Back Pain", *Phys Ther.* 2001; 81:1641-1674.

The Philadelphia Panel indicated that for neck pain, therapeutic exercises were the only intervention with clinically important benefit. There was good agreement with this recommendation from practitioners (93%). For several interventions and indications (e.g. thermotherapy, therapeutic ultrasound, massage, electrical stimulation), there was a lack of evidence regarding efficacy (*Philadelphia Panel Evidenced-Based Guidelines on Selected Rehabilitation Interventions for Neck Pain. Phys Ther. 2001; 81:1701-1717*).

The use of neuromuscular re-education was not medically necessary. Neuromuscular re-education is not commonly utilized for the management of conditions similar to the patient's. The procedure is utilized to re-establish the neural link between the central nervous system and the motor system after neurological injury. As no evidence of a central nervous system neural injury was noted, the use of the procedure was not consistent with the diagnosis.

The use of therapeutic procedures was necessary as the functional capacity evaluation (FCE) performed in November of 2002 identified functional deficits amenable to continued rehabilitation, as were the physical performance tests. The prolonged evaluation and management services were also medically necessary for this patient's treatment.

Therefore, it is determined that the therapeutic procedures, physical performance testing, and prolonged evaluation management from 10/18/02 through 06/06/03 were medically necessary. However, the subsequent office visits with manipulation, conference, unlisted modality, neuromuscular re-education, activities, electrodes, and hot/cold pack therapy from 10/18/02 through 06/06/03 were not medically necessary.

The injection, unclassified injection, and surgical therapy are beyond the scope of practice for a chiropractor and should be addressed by an M.D.

Sincerely,